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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,892	08/31/2001	Donald J. Remboski	IA00002	4080

22863 7590 12/10/2003

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT - #56-238
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EXAMINER

YAO, KWANG BIN

ART UNIT PAPER NUMBER

2667

DATE MAILED: 12/10/2003

[Handwritten number 12]

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,892

Applicant(s)

REMBOSKI ET AL.

Examiner

Kwang B. Yao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9,11. 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-9, 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda et al. (US 5,499,247) in view of Bertin et al. (US 5,940,372).

Matsuda et al. discloses an automobile multiplex transmission system comprising the following features: regarding claim 1, as depicted in Fig. 1, comprising a first device (12) and a second device (17), an active network (18) communicatively coupling the first and second devices; regarding claim 11, a data interface to each of the first device (12) and the second device (17) for coupling the first device and the second device, respectively, to the active network (18), wherein the data interface operates to accept data from or deliver data to the

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device, respectively, independently of the functionality of the respective device; a plurality of coupled active network elements coupling the interfaces; regarding claim 18, a method of communicating data between a first device (12) and a second device (17) within the vehicle, the method comprising: communicatively coupling the devices utilizing a data transport medium (18).

Matsuda et al. does not disclose the following features: regarding claim 1, the active network having an overall communication capability and a portion of the overall communication being reserved for communication usage by the first device; regarding claim 2, the portion being exclusively reserved for the first device; regarding claim 3, wherein an unreserved portion of the overall communication capability is shared by each of the first and second devices; regarding claim 4, wherein the portion comprises a plurality of communication paths between the first device and the second device; regarding claim 5, wherein the portion is reconfigurable; regarding claim 6, wherein the portion is reconfigurable responsive to a condition of the active network; regarding claim 7, wherein the condition is one of over-capacity and under-capacity; regarding claim 8, wherein the condition is a failure in the active network; regarding claim 9, wherein the active network comprises a packet data network; regarding claim 11, a portion of the active network elements, the portion being reserved for communication usage by the first device; regarding claim 12, wherein the portion is exclusively reserved for the first device; regarding claim 13, wherein the portion includes a plurality of communication paths between the first device and the second device; regarding claim 14, wherein the portion is reconfigurable; regarding claim 15, wherein the portion is reconfigurable responsive to a condition of the active network; regarding claim 16, wherein the condition is one of over-capacity and under-capacity;

regarding claim 17, wherein the condition is a failure in the active network; regarding claim 18, the data transport medium defining a plurality of potential communication paths between the first device and the second device; reserving a portion of the plurality of potential communication paths for communications from or to the first device; transporting data from or to the first device using the data transport medium inclusive of the portion and transporting data from or to the second device using the data transport medium exclusive of the portion; regarding claim 19, wherein the step of reserving a portion of the data transport medium comprises reserving at least one communication path between the first device and the second device; regarding claim 20, comprising the step of reconfiguring the portion; regarding claim 21, comprising the step of reconfiguring the portion responsive to a condition of the active network.

Bertin et al. discloses a system for selecting a path comprising the following features: regarding claim 1, as depicted in Fig. 1, the active network (200) having an overall communication capability and a portion of the overall communication being reserved for communication usage by the first device (202); regarding claim 2, the portion being exclusively reserved for the first device (202); regarding claim 3, wherein an unreserved portion of the overall communication capability is shared by each of the first and second devices (202, 203); regarding claim 4, wherein the portion comprises a plurality of communication paths between the first device (202) and the second device (203); regarding claim 5, wherein the portion is reconfigurable (see abstract); regarding claim 6, wherein the portion is reconfigurable responsive to a condition of the active network (see abstract); regarding claim 7, wherein the condition is one of over-capacity and under-capacity (see column 2-3); regarding claim 8, wherein the condition is a failure in the active network (see column 4, lines 1-5); regarding claim 9, wherein

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the active network comprises a packet data network (200); regarding claim 11, a portion of the active network elements, the portion being reserved for communication usage by the first device (202); regarding claim 12, wherein the portion is exclusively reserved for the first device (202), see abstract; regarding claim 13, wherein the portion includes a plurality of communication paths between the first device (202) and the second device (203); regarding claim 14, wherein the portion is reconfigurable (see abstract); regarding claim 15, wherein the portion is reconfigurable responsive to a condition of the active network (see column 2-3); regarding claim 16, wherein the condition is one of over-capacity and under-capacity (see column 2-3); regarding claim 17, wherein the condition is a failure in the active network (see column 4, lines 1-5); regarding claim 18, as depicted in Fig. 1, the data transport medium (200) defining a plurality of potential communication paths between the first device (202) and the second device (203); reserving a portion of the plurality of potential communication paths for communications from or to the first device; transporting data from or to the first device using the data transport medium inclusive of the portion and transporting data from or to the second device using the data transport medium exclusive of the portion, see abstract; regarding claim 19, wherein the step of reserving a portion of the data transport medium comprises reserving at least one communication path between the first device (202) and the second device (203); regarding claim 20, comprising the step of reconfiguring the portion, see column 9-11; regarding claim 21, comprising the step of reconfiguring the portion responsive to a condition of the active network, (see column 4, lines 1-5).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Matsuda et al., by using the features, as taught by Bertin et al., in order to an efficient data communication system.

Response to Amendment

4. The Affidavit under 37 CFR 1.132 filed 10/1/03 is insufficient to overcome the rejection of claims 1-9, 11-21 based upon references applied under 35 U.S.C. 103(a) as set forth in the last Office action because: this Affidavit misinterpreted the reference of Bertin et al. (US 5,940,372); the network disclosed by Bertin et al. is indeed an active network; each node 200-208 in Fig. 2 is aware of the messages transported and performs the conversions required to transport the users data flow across the network (see column 7, line 53-63); moreover, it is clear that the network is not passive, since there is no central server in the network to manage the nodes 200-208.

Response to Arguments

5. Applicant's arguments filed 10/1/03 have been fully considered but they are not persuasive.

On page 7, from second to fourth paragraph, Applicant argues that Matsuda et al. and Bertin et al. do not teach or suggest the use of a vehicle comprising an active network. Examiner respectfully disagrees with these arguments. It is noted that the node 200-208 (depicted in Fig. 2 of Bertin et al.) is aware of the messages transported and performs the conversions required to transport the users data flow across the network (see column 7, line 53-63). Moreover, it is

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impossible that the network of Bertin et al. is passive, because there is no central server in the network to manage the nodes 200-208. Therefore, it is respectfully maintained that the combined reference of Bertin et al. and Matsuda et al. would have been obvious to arrive the claimed invention.

On page 7, last paragraph, and page 8, first paragraph, Applicant argues that there is no motivation or suggestion contained in the cited art to combine the teachings of the reference. Examiner respectfully disagrees with these arguments. It is recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is in the knowledge generally available to one of ordinary skill in the art.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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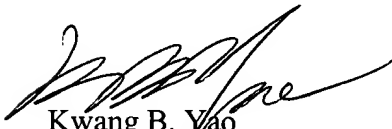
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwang B. Yao whose telephone number is 703-308-7583. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H Pham can be reached on 703-305-4378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

KWANG BIN YAO
PRIMARY EXAMINER



Kwang B. Yao
December 8, 2003